

Federal Communications Commission

FCC MAIL SECTION
DA 00-1472

JUN 29 6 12 PM '00

JUL 5 6 12 PM '00

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Metropolis, Illinois and Paducah,
Kentucky)MM Docket No. 99-314
RM-9754REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 21, 2000;

Released: June 30, 2000

By the Chief, Allocations Branch:

1. At the request of Sun Media, Inc. ("petitioner"), permittee of Station WRIK-FM, Channel 252C1, Metropolis, Illinois, the Allocations Branch has before it the Notice of Proposed Rule Making, 14 FCC Rcd 17772 (1999), proposing the reallocation of Channel 252C1 from Metropolis Illinois, to Paducah, Kentucky, and the modification of Station WRIK-FM's construction permit accordingly. Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if reallocated to Paducah. No other comments were received.

2. The proposed reallocation was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permit the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) ("Change of Community").

3. In considering a change of community of license proposal, we must determine whether the proposal would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. See Change Community, *supra*. Under those procedures, we

compare the existing arrangement of allotments with the proposed arrangement of allotments using our FM allotment priorities.¹ See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).

4. In making this comparison, we find that both the existing and proposed arrangement of allotments trigger priority (4) – other public interest matters. Under this priority, the issue is whether to retain Station WRIK-FM and Channel 252C1 in Metropolis (population 6,734) as a third local transmission service or to reallocate the station and channel to Paducah (population 27,256) as a sixth local transmission service. Since both Metropolis and Paducah receive a comparable number of reception services (8) and since no transmitter site or technical change is proposed by the petitioner, this case turns on the number of local transmission services. In this regard, Metropolis has three local transmission services² – one full-time AM station and two FM stations while Paducah has five transmission services³ – three full-time AM stations and two FM stations. Under these circumstances, we do not believe that the difference in population between the two communities justifies the removal of the third local transmission service and first competitive FM service from Metropolis so that Paducah can have a sixth local transmission service. To do so under the circumstances of this case would be to allocate channels under priority (4) based entirely on population. Where no facility change or other public interest benefit is proposed and where both communities have multiple local stations, we have not generally reallocated channels or changed communities of license because the proposed community had a larger population. For example, in Sumter, Orangeburg, and Columbia, SC, 11 FCC Rcd 6376 (Allocations Br. 1996), we denied a proposal to reallocate and to change the community of license of a Class C1 FM station from the smaller community of Orangeburg (population 13,739) to the larger community of Columbia (population 98,052) because retention of Orangeburg's sixth station outweighed providing Columbia with its fourteenth local transmission service where there would be no actual improvement in technical facilities by the rulemaking petitioner. Likewise, in Royston and Commerce, GA, MM Docket 99-123, DA 00-673, released March 24, 2000, under priority (4), we retained an FM station and allotment in the smaller community of Royston (population 2,758) as a first night-time and second local service rather than change the community of license to the larger community of Commerce (population 4,108) as a second full-time station because the larger population did not justify removing the smaller community's only local night-time service. And, in Bay Springs, Ellisville, and Sandersville, MS, 14 FCC Rcd 21339 (1999), we denied a request to change the community of license and reallocate a channel because under

¹ The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight given to priorities (2) and (3).]

² The following stations are licensed to Metropolis: the petitioner's Station WRIK-FM, Station WREZ(FM), and Station WMOK(AM).

³ The five Paducah stations are Stations WKYX(AM), WDXR(AM), WPAD(AM), WKYQ(FM), and WDDJ(FM).

priority (4) the need of a community of 3,634 people for a first competitive or second local service was not as great as the retention of the station as a first competitive and first nighttime service to a community of 1,729.

5. While the petitioner cites in its rulemaking petition the cases of Athens and Atlanta, IL, 11 FCC Rcd 3445 (Allocations Br. 1996) and Blanchard, LA and Stephens, AR, 8 FCC Rcd 7083 (Comm. 1993), to support its contention that the station should be allotted to the community with the larger population, we believe that these cases are inapposite. In both of these cases, we were faced with choosing between mutually exclusive proposals for new allotments that triggered priority (3) as first local services. We based our decisions on the population differences between the communities because the number of reception services in both communities was comparable and did not fall below a threshold level. Even though the population differences were small, we granted the allotments to the communities with the larger populations. However, the instant case does not involve a situation where we are choosing between two mutually exclusive allotment proposals for first local transmission services under priority (3) and are using the population difference as a tie-breaking mechanism. Rather, we are deciding under priority (4) whether to reallocate and change the community of license of a station from a smaller to a larger community, both of which have multiple local transmission services. Under our precedent described above, we have not generally based such a comparison on population.

6. Accordingly, IT IS ORDERED, That the petition for rule making filed by Sun Media, Inc., to reallocate Channel 252C1 from Metropolis, Illinois, to Paducah, Kentucky, IS DENIED.

7. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to petitioner, as follows:

Sun Media, Inc.
6120 Waldo Church Road
Metropolis, Illinois 62960

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Sharon P. McDonald or Andrew J. Rhodes, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau